

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT GREENVILLE**

TENNESSEE CLEAN WATER)	
NETWORK,)	
)	
Plaintiff,)	Civil Action No. 2:14-cv-336
)	
v.)	Judge: Hon. R. Leon Jordan
)	Magistrate: Hon. Dennis H. Inman
U.S. DEPARTMENT OF DEFENSE,)	
ASHTON CARTER, ¹ in his official capacity))	
as Secretary of the U.S. Department of)	
Defense, and BAE SYSTEMS)	
ORDNANCE SYSTEMS, INC.,)	
)	
Defendants.)	
)	

JOINT MOTION TO CONTINUE STAY OF PROCEEDINGS

Pursuant to Federal Rule of Civil Procedure 6(b)(1) and Local Rule 12.1(a), Plaintiff Tennessee Clean Water Network (“TCWN”), Defendants U.S. Department of Defense and Ashton Carter in his official capacity as the Secretary of the U.S. Department of Defense (“Federal Defendants”), and Defendant BAE Systems Ordnance Systems, Inc. (“BAE Systems”) jointly move to continue the existing stay of proceedings in this litigation for an additional period of 14 days, through May 29, 2015.

This action involves allegations arising out of BAE Systems’ operation of the Holston Army Ammunition Plant in Kingsport, Tennessee that the Defendants have violated the Clean Water Act (“CWA”), 33 U.S.C. § 1365(a)(1). Specifically, Plaintiff alleges that Defendants

¹ Plaintiff originally brought this claim against Chuck Hagel, the former Secretary of the United States Department of Defense. Pursuant to Federal Rule of Civil Procedure 25(d), his successor, Ashton Carter, has automatically been substituted as a party.

have discharged pollutants in violation of permits applicable to Holston and have discharged pollutants without a permit. The Holston plant produces Research Department Explosive (“RDX”), a product used in the production of missiles and other weapons, which the Department of Defense considers essential to its mission.

The parties previously moved to stay proceedings in this litigation until May 15, 2015 and to extend the Federal Defendants’ time to respond to the Complaint until June 5, 2015—which the Court granted, *see* Order, Feb. 20, 2015 (Page ID 105)—to allow the parties time to explore the possibility of a negotiated settlement. The issues involved in this litigation are complex, and resolution of each issue requires technical research as well as time and assistance from Army and BAE Systems personnel. Since the Court’s last order, the parties have voluntarily exchanged a great deal of information and have exchanged settlement proposals. Although terms of a settlement have not been reached, the parties continue to believe there is a possible path to a negotiated resolution of these claims. The parties believe that extending the stay by an additional 14 days will be conducive to negotiating a tentative framework agreement. If the parties arrive at a framework within this time, we would then seek a longer stay to negotiate specific language and to seek approval from the appropriate officials.

Accordingly, the parties respectfully request that the Court continue the stay of proceedings in this litigation for an additional period of 14 days, through May 29, 2015. In conjunction with the Court’s previous order extending the Federal Defendants’ time to respond to the Complaint, the stay would result in a response deadline of June 19, 2015.

For these reasons, TCWN, the Federal Defendants, and BAE Systems jointly request, for good cause, that the Court enter an order granting the requested stay. A proposed Agreed Order accompanies this motion.

Respectfully submitted, on Friday, May 15, 2015,

JOHN C. CRUDEN
Assistant Attorney General

s/ Samara M. Spence
SAMARA M. SPENCE (BPR No. 031484)
Attorney for Federal Defendants
Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
P.O. Box 7611
Washington, DC 20044-7611
(202) 514-2285
Samara.spence@usdoj.gov

s/ Stephanie Durman
GARY A. DAVIS (BPR No. 009766)
JAMES S. WHITLOCK (N.C. Bar No. 34304)
Attorneys for TCWN
Davis & Whitlock, P.C.
21 Battery Park Ave.
Ashville, NC 28801
(828) 622-0044
(828) 398-0435
gadavis@enviroattorney.com
jwhitlock@enviroattorney.com

STEPHANIE DURMAN (BPR No. 027783)
Tennessee Clean Water Network
P.O. Box 1521
Knoxville, TN 37901
(865) 522-7007 x102
stephanie@tcwn.org

s/ Michael K. Stagg
MICHAEL K. STAGG (BPR No. 017159)
LAURAN M. STURM (BPR No. 030828)
Attorneys for BAE Systems
Waller Lansden Dortch & Davis, LLP
511 Union St., Ste. 2700
Nashville, TN 37219
(615) 244-6380
Michael.stagg@wallerlaw.com
Lauran.sturm@wallerlaw.com

Certificate of Service

I hereby certify that on May 15, 2015, a true and correct copy of the above Joint Motion to Stay Proceedings and its attachment in the case of *Tennessee Clean Water Network v. U.S. Department of Defense, et al.*, No. 2:14-cv-336, was filed via the Court's electronic filing system, which will send notice of filing to counsel of record, as noted below:

Gary A. Davis
James S. Whitlock
Davis & Whitlock, P.C.
21 Battery Park Avenue, Suite 206
Asheville, NC 28801
gadavis@enviroattorney.com
jwhitlock@enviroattorney.com

Stephanie Durman
Tennessee Clean Water Network
P.O. Box 1521
Knoxville, TN 37901
stephanie@tcwn.org

Michael K. Stagg
Lauran M. Sturm
Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, TN 37219
Email: michael.stagg@wallerlaw.com
Email: lauran.sturm@wallerlaw.com

JOHN C. CRUDEN
Assistant Attorney General

Dated Friday, May 15, 2015

BY: s/ Samara M. Spence
SAMARA M. SPENCE (BPR No. 031484)
Attorney for Federal Defendants
Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
P.O. Box 7611
Washington, DC 20044-7611
(202) 514-2285
Samara.spence@usdoj.gov